

February 9, 2012

David Theoharides,  
Superintendent  
Sanford School Department  
917 Main St., #200  
Sanford, ME 04073

**RE: Complaint Investigation #12.043CS, “Midcoast Advocacy v. Sanford”**

Dear Mr. Theoharides:

This request for a systemic complaint investigation was filed on January 3, 2012. The complaint alleged that your school district had a policy or practice of not considering at IEP Team meetings reports of parent-initiated evaluations or written statements of parent concerns unless they were provided at least three days in advance of the meeting, and that such policy or practice violated special education regulations. Attached to the request for the complaint was documentation appearing to confirm that this practice had been followed in at least two specific instances.

A complaint investigation meeting was held in this case on January 24, 2012, at which Michael Opuda, your consultant, denied that the district had such a policy or practice. Mr. Opuda explained that there have been meetings where such reports or statements were presented by parents and where, due to the length and complexity of those reports and statements, the fact that the district had not been provided them in advance meant that as a practical matter the IEP Team was unable to review them.

At the meeting, Mr. Opuda also offered a proposal to resolve the complaint. Your proposal was to institute a procedure whereby parents would be informed in advance that evaluation reports and statements of parental concerns would need to be submitted to the district no less than three days before an IEP Team meeting, and that failure to do so would result in those reports and statements not being reviewed at the meeting. Mr. Opuda also referred the Department to the Office of Special Education Program (OSEP)’s *Letter to Anonymous*, 111 LRP 68370 (January 19, 2011), in which OSEP stated that: “it would be reasonable for a public agency to establish criteria, including a requirement that it receive the entire evaluation report...by a certain time, to give the public agency the opportunity to review the report prior to scheduling an IEP Team meeting to discuss that evaluation. Such criteria would need to be provided to parents in advance or otherwise made available publicly so that individuals seeking an independent educational evaluation are fully informed.”

Following the complaint investigation meeting, you engaged in further discussions with the complaint investigator, Jonathan Braff, Esq., regarding your resolution proposal, and arrived at a resolution agreement. The terms of that agreement are as follows:

1. Sanford will explicitly adopt a procedure to require parents to provide independently procured evaluation reports and written statements of parent concerns at least three days before a scheduled IEP Team meeting. Failure on the parents' part to follow this procedure will result in those reports or statements not being reviewed at the meeting.
2. Sanford will issue a notice of this procedure in writing to all families in the school district presently in special education, as well as to those presently in the referral process. Thereafter, for each new family whose child is referred to and/or identified for special education, a written statement of this procedure shall be appended to the first Advance Written Notice issued to the family. The procedure shall additionally be posted on the school district's website.

The resolution agreement set forth above is hereby accepted and this complaint shall be held in abeyance pending proof by the school district of its compliance with the agreement. To document the school district's compliance with the resolution agreement, the district shall submit to the Due Process Office, with a copy to Midcoast Advocacy: proof of the district's adoption of the procedure, including proof of notice of the procedure to all district special education personnel; proof of dissemination of notice of the procedure to all families in the district presently in special education, including families presently in the referral process; and proof of the posting of the procedure to the district's website. Upon the Due Process Office's receipt of this documentation and its determination that the resolution agreement has been fulfilled, this case will be marked "Closed."

Thank you.  
Sincerely,

Stephen L. Bowen

SLB:JB:pn

Encl.

CC: Marti Hess-Pomber, Special Services Director  
Michael Opuda, Consultant  
Buckley Hugo, Midcoast Advocacy, Interested Party  
XX, Parents  
XX, Parents  
Jonathan L. Braff, Esq., Complaint Investigator  
Pauline Lamontagne, Esq., Due Process Coordinator  
Susan J. Parks, C.A.S., Due Process Consultant